

Disabilities Advisory Council
Virginia Office for Protection and Advocacy

ANNUAL REPORT - *DRAFT*

FISCAL YEAR: 10/1/2004-9/30/2005
REPORT PREPARED BY: Dave Wilber, Advisory Council Chair
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DATE SUBMITTED:

[Advisory Council Chair Signature]

SECTION A. POSITION OF ADVISORY COUNCIL AS OF SEPTEMBER 30, OF THIS YEAR

1. Status: Total Number of Persons on Advisory Council.

[In column 1 (Primary ID)/ please indicate the one primary identification of each advisory council member. In column 2 (Total Number), please include all individuals in each category, even those who are listed also in other categories.]

	Primary ID	Total #
a. Number of Advisory Council Members Serving on 9/30	10	10
b. Recipients/Former Recipients (R/FR) of disability related services	2	3
c. Parents/Family Members of R/FR of disability related services	3	4
d. Disability related service providers	3	3
e. Disability related professionals	1	1
f. Attorneys		
g. Individuals from the public who are knowledgeable about disabilities		
h. Others (please identify). (Council will be making a recommendation to the Governing Board regarding one member's status due to lack of attendance)	1	1
i. Vacancies (please identify). (DAC bylaws note that the membership must be between 10-20 total)	0-10	
j. **Total number of members on the Advisory Council (Add items a. and h. for total)	10-20	

** This total represents all seats on the Advisory Council.

2. Ethnicity, Race and Gender Composition:

Ethnicity/Race	Number of Members
American Indian or Alaskan Native	
Asian	
Black or African American	2
Hispanic or Latino	
Native Hawaiian or Other Pacific Islander	
White	7
Information Not Available	1
TOTAL	
Gender	
Male: 7	Female: 3
TOTAL: 10	

B. ADVISORY COUNCIL MEETINGS: Provide the information requested in the table below.

	Advisory Council
Number of Advisory Council Members Serving on 9/30	10
Term of Appointment (Number of years)	4
Number of Terms a Member Can Serve	1
Frequency of Meetings	Quarterly
Number of Meetings Held in the Fiscal Year	4
% (Average) of Members Present at Meetings	60%

1. Do VOPA staff usually attend Council meetings?

Yes. The Executive Director, Policy Director and an Administrative Staff routinely attend the DAC meetings. In addition, every meeting includes a training session that is provided by either Managing Attorneys, staff attorneys, or advocates.

2. Do any governing board members usually attend?

Yes, the Board Chair or a designee routinely attends.

3. Did the Council work jointly with the governing authority or board to develop the annual priorities?

Yes. Time on meeting agendas was dedicated to discussing and providing recommendations about the goals, focus areas and objectives. In addition, the Council was provided with information that summarized the public comment input VOPA received. The DAC Chair, as a member of the Governing Board, was involved in the Board's deliberations of the goals, focus areas and objectives.

4. Does the Council generally work jointly with the governing authority or board in developing VOPA policies?

Yes. The Governing Board of Directors has established a committee structure that includes representation from both of VOPA's Advisory Councils on each committee. The DAC has identified members to serve on the following Governing Board of Director's Committees:

Priority Setting and Public Awareness
Internal Policies
Public Policy

A Council member also participates in VOPA's Spanish Outreach Advisory Committee (although this is not a committee of the Governing Board).

5. Did Council members attend any in-state training or educational presentations related

to VOPA activities?
Yes. The Virginia Office for Protection and Advocacy provides legal rights and disability related training at every Council meeting. In addition, Council members are very active in the disability communities and attend functions both in and out of state.

In addition to attending council meetings, council members may engage in other optional activities sponsored or endorsed by VOPA. Please describe any such activities under the proper headings below:

1. Work on governing board or advisory council committees (please identify):

At every Governing Board meeting the Council Chair gives a verbal report of the Council's activities since the last Board meeting. This report is usually a review of the Council meeting and what impact it may have had on the members' other advocacy efforts in the disability community.

Council Members are given the opportunity to serve on the Governing Board committees. Geographic barriers, work schedules and Virginia Freedom of Information Act restrictions previously had limited their direct involvement. However, the 2005 General Assembly passed amendments that loosened some of the limitations on public meetings. Council members have volunteered to serve on several Governing Board committees as mentioned earlier.

The Council Members and VOPA staff routinely update the other council members on the Governing Board committee work.

2. Training or educational presentations to constituency groups or the general public (please identify): *Not applicable*

3. Systemic or legislative advocacy activities (please identify): *Not applicable*

4. Special projects (e.g., institutional monitoring): *Not applicable*

5. Other (e.g., fund raising, public relations, etc.): *Not applicable*

D. ADVISORY COUNCIL ASSESSMENT OF VOPA OPERATIONS

VOPA Goals:

Goal: People with Disabilities are Free from Abuse and Neglect

A. Inappropriate Medication in Mental Retardation Institutions

By statute, VOPA receives Critical Incident Reports (CIR) submitted by the mental retardation institutions. Every CIR is read by VOPA staff and pertinent information is entered into a database. All CIRs that involve injuries within current program priorities and other alarming or unusual reports are identified and further reviewed. In addition, the VOPA Executive Director conducts a weekly meeting to address the reports, their implications, and remedial action.

In conjunction with VOPA's review of CIR, VOPA routinely requests that the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) produce internal investigation reports and supporting materials.

Previously Critical Incident Reports were sent from the state institutions to VOPA via e-mail. The Department of Mental Health, Mental Retardation and Substance Abuse Services felt this method of reporting might violate client confidentiality. So, over 2 years ago, the Department met with VOPA and the Office of the Inspector General to suggest another manner in which to

report CIRs. They proposed that the institutions report through a Department database with VOPA and the OIG receiving the information through a web-based secured server. At that time, VOPA agreed to explore this, as long as there would be no change in the timeliness, level, quality, or amount of information provided. However, for reasons internal to the Department, this proposal was substantially delayed. Work on the secured server resumed this year. In March 2005, the PAIRS reporting system was implemented. After some fine tuning, the delivery and receipt of the CIRs through this process can be accomplished. VOPA had fairly significant database conversions as a result of this secured server.

VOPA identified an apparent pattern of late submissions of some of the CIRs. This was brought to the attention of DMHMRSAS' representatives who responded quickly to address it. VOPA continues to monitor this.

VOPA had an active role in the Department of Mental Health, Mental Retardation and Substance Abuse Services Human Rights Regulations Review Process. VOPA was represented on the Advisory Committee as well as three of the sub-committees (Administrative Processes, Seclusion and Restraint, and Decision Making). VOPA staff visibly advocated to strengthen the regulations on behalf of individuals with disabilities. The subcommittees' recommendations were considered by the Advisory Committee and were either forwarded to the DMHMRSAS for consideration, forwarded with modification for consideration or rejected. DMHMRSAS will draft the regulations for their Board. Once approved by their Board the Administrative Process Act requirements commence. Although committee/sub-committee representation was handled by four VOPA staff, much consultation/collaboration occurred throughout the Office and with other entities outside of the meetings.

VOPA worked and is working on many investigations of alleged medication without informed consent. Most were related to individual complaints.

In addition to full investigations, several preliminary inquiries have been completed. Some have been favorably resolved without need for further investigation or action. Others were opened for full investigation or full case level services and some resulted in no further action.

Investigation of a drug-related death and medication practices at Southeastern Virginia Training Center is complete. An administrative complaint was filed alleging medical neglect, destruction of records, obstruction of VOPA's investigation and other abuse or neglect. The complaint has been favorably resolved with the facility agreeing to provide pharmacological review of two residents' medications and another resident's as requested by legally authorized representatives, favorable resolution of the obstruction issues, and agreed training concerning maintenance of medical records.

Outreach sessions for residents of the training centers to inform them of their rights have been completed.

B. Staff on Resident Assaults in State Mental Retardation Institutions

VOPA has conducted investigations of individual complaints of alleged staff abuse or neglect.

Besides investigation of individual complaints, VOPA has certified probable cause to believe systemic abuse or neglect at a state training center, resulting in resident injuries. The investigation potentially affects 560 residents and is ongoing.

C. Abuse & Neglect in Community Settings

Please see focus area #1 above regarding VOPA's work on the DMHMRSAS' Human Rights Regulation Review. VOPA staff provided a strong leadership role in the sub-committee on Decision Making. In addition to persistent and consistent participation in the meetings, VOPA staff spent many hours drafting and reviewing proposed language, doing legal research, and pursuing consumer self-direction.

VOPA attended the annual Guardianship and Elder Rights Conference to learn of community resources and opportunities for collaboration.

VOPA has worked on a large number investigations of alleged abuse or neglect in community settings involving a wide variety of issues including alleged inadequate medical care, nursing home neglect, inadequate medication management, inappropriate discharge planning and procedures, injury, inadequate services and failure to report potential abuse or neglect by a mandated reporter. Some investigations have been completed which were followed by successful case level advocacy services. Others investigations are ongoing.

VOPA continues its work to "increase Adult Protective Services referrals to VOPA of allegations of abuse or neglect," including correspondence to 121 local APS offices, follow-up meetings at local APS offices and agreement to participate in a joint agency work-group to improve APS reporting. A work-group meeting was held during the summer that was very productive.

In addition to formal investigations, VOPA is monitoring eight Assisted Living Facilities, including weekly, intensive monitoring of one facility pursuant to Court Order.

VOPA attended and actively participated in the Task Force convened by the Board of Nursing to assist in the development of administrative regulations for the registration/certification and training of medication aides in assisted living facilities. VOPA advocated to include the resident in every aspect of medication administration when possible based on the individual's capacity. VOPA also advocated for accountability and clear expectations regarding documentation. VOPA also provided written recommendations to the Task Force and Board of Nursing; again we stressed the need for resident participation and staff accountability. We encouraged the Task Force and the Board of Nursing to try to balance the needs of a medical model with the need to maintain a non-institutional setting.

The Virginia Public Guardianship/Conservator Advisory Board for the Department of the Aging convened an ad hoc committee to explore providing guidance to public guardians in the area of healthcare decisions. VOPA attended the first meeting which focused on identifying issues and considerations.

D. Inappropriate Seclusion or Restraint Use in Juvenile Facilities and Schools

VOPA is monitoring eight juvenile facilities to evaluate staff training and transition planning.

Investigation of inappropriate restraint in a school is completed and a corrective action demand has been made. The case is ongoing.

E. Deaths Where There is Probable Cause to Believe Abuse or Neglect Occurred

VOPA reviews all related Critical Incidents Reports in this area and discusses same in the weekly meetings.

VOPA has conducted several death investigations. Two are completed, one was presented in Court and another is part of a pending Administrative Complaint. The others are ongoing.

DAC Comments:

The DAC is very pleased with the efforts made by VOPA in the area of combating abuse and neglect of people with disabilities. Of particular note is the effort to better utilize data to identify trends, suspect actions, and questionable practices that may lead to abuse and neglect occurring. Continuous exploring of the use of the CIRs, APS reports and PRTF reports is an area of significant growth for VOPA. DAC supports this progress toward systemic change. DAC also supports the ICF/MR survey monitoring initiated by VOPA; this helps to ensure the health/safety of the residents.

The area of appropriate medication in the institutions is of particular interest to DAC members. The DAC supports VOPA's efforts in this area as inappropriate poly-pharmacy practices in these institutions are suspected by DAC members.

The DAC is very pleased with VOPA's work in addressing the abuse and neglect found at Brice's Villa. This "home run" by VOPA is vital to the rights of people with disabilities on many levels. The court finding regarding abuse is a major achievement for the P&A and will provide legal standing for VOPA for future efforts.

Goal: Children with Disabilities Receive an Appropriate Education

A. Transition Services

VOPA has represented more than the five children it committed to represent regarding appropriate transition services.

VOPA reviewed the work of a joint Department of Education/Department of Juvenile Justice Task Force charged with developing regulations regarding transition from juvenile justice facilities to public schools. VOPA had reviewed several draft versions of the regulations and provided comments when the regulations were published for public comment.

VOPA has reached a settlement with the Department of Rehabilitative Services ensuring that it will provide appropriate transition services to eligible children, regardless of age.

VOPA has taken steps to ensure that children will receive appropriate transition services from other state agencies, as well. VOPA received an agreement from the Department of Education that it will not refuse to hear or adjudicate complaints from children or parents (including transition eligible children) because the complaints deal with "substantive" rather than

“procedural” matters. DOE has published a new guidance document making this apparent. VOPA has also entered into a settlement agreement with DOE ensuring that a transition eligible child will receive appropriate accommodations on her Standards of Learning exams.

VOPA has completed a fact sheet detailing the rights of SSI/SSDI eligible children to work and still receive benefits.

VOPA monitored seven juvenile facilities to evaluate staff training and transition planning.

B. Children Placed in Interim Alternative Educational Placements Due to Disability

VOPA has provided legal services in more than ten cases to ensure that they are not placed in interim alternative education placements or put at risk of such placement. In one case, VOPA successfully litigated a due process case to help a child receive Extended School Year (ESY) services. The School however, has indicated that it will appeal the decision.

C. Assistive Technology and Supports in School

VOPA has provided legal services in several cases to ensure that children receive appropriate assistive technology. In one case, a child who uses Kurzweil 3000 as assistive technology was denied the right to use it on SOL exams and denied the proper use of it in school. VOPA filed a due process petition on her behalf. The matter was settled on the eve of trial when the school agreed to provide all the services requested by the student and the Department of Education agreed to allow her to use Kurzweil 3000 on the SOLs. VOPA is currently in settlement negotiations with DOE to ensure that they will allow other students to use Kurzweil 3000 and other appropriate assistive technology on SOL assessments.

VOPA developed an Assistive Technology brochure and it has been published. See attached.

D. Technical Assistance to Private Bar, Legal Services Agencies, and Parent Advocacy Groups Regarding Changes in the Individuals with Disabilities Act

VOPA developed a brochure on the changes to IDEA and presented several trainings regarding those changes. The publication is due to be printed in FY06.

E. Best Practices in Education about Traumatic Brain Injury

VOPA reviewed the Brain Injury Association of Virginia’s Best Practices manual and ensured that it was published by the Department of Education and disseminated to all interested parties and schools.

VOPA is developing a TBI resources fact sheet.

DAC Comments:

Most of the DAC is involved with adults with disabilities so comments in this area are limited. However, the DAC believes it is significant that VOPA’s work with DRS addressing transition services has resulted not only in systemic change, but DAC members also perceive attitudinal changes of DRS employees.

DAC also recognizes that VOPA’s work in the area of assistive technology in schools fosters full inclusion of children with disabilities.

Goal: People with Disabilities have Equal Access to Government Services.

A. Inaccessible Commercial Locations under Contract with the State

VDOT has a motorist service that is responsible for the big blue signs near exit ramps on selected interstate and other restricted access highways indicating where travelers can get a meal, spend the night or fill their tanks. Currently, there are logo signs at over 300 Virginia interchanges on I-64, I-66, I-77, I-81, I-85, I-95 and I-295 and restricted bypass routes. Over 4,200 logo business panels are installed, and more than 2,300 businesses participate. Virginia piloted this “logo” program in 1965.

VOPA continues to advocate for commercial locations under contract with this program to be accessible. VOPA submitted comments to proposed regulations governing the “logo” program, arguing that the Department of Transportation should require that all contracting companies be accessible. VOPA will assess the viability of an action against the Department of Transportation based upon the results of the action against the Lottery. Please see below.

In 1999, at the P&A’s request, the Lottery surveyed all of its retailers and found the vast majority to be out of compliance. Despite VOPA’s request, the Lottery has not required its retailers to come into compliance with the ADA or the VDA. VOPA filed a lawsuit against the Virginia Lottery alleging that it violates the rights of people with disabilities when it contracts with inaccessible businesses to sell Lottery products. The Lottery has filed a Motion to Dismiss. The matter is pending.

B. Law Enforcement Agencies Recognize the Rights of Persons with Disabilities

VOPA presented at the National Criminal Justice Command College of the University of Virginia concerning law enforcement interaction with persons with disabilities. The Command College has agreed to include a training session in their future curricula addressing this issue. Preparation for this presentation included VOPA representatives meeting with representatives of the Brain Injury Association of Virginia to discuss this and other collaborative efforts.

C. Polling Places for People with Disabilities

VOPA conducted extensive monitoring of voting sites on Election Day 2004 to examine accessibility for persons with disabilities. VOPA has distributed its Interactive Polling Place Survey Instrument to all interested parties and continues to do so. The Unit has provided between 20-30 trainings on voting accessibility and continues to stress voting accessibility in nearly every training it provides, regardless of topic. VOPA, in conjunction with VCU, created and ran a public service announcement on voting accessibility. VOPA has opened cases addressing accessibility for people with disabilities and reached settlement agreements. As a result of VOPA advocacy, the State Board of Elections has guaranteed that persons with “non-physical” disabilities have access to absentee ballots. Voting rights information is provided to people requesting this service.

D. Inaccessible Sidewalks

VOPA entered into a settlement agreement with the City of Richmond ensuring sidewalk accessibility during inclement weather. VOPA received complaints that the City plows snow in front of curb ramps and otherwise makes its sidewalks inaccessible. The City has agreed to ensure that curb ramps are accessible after snow storms and has created a public service announcement informing businesses of their obligation to ensure that sidewalks are cleared and accessible.

VOPA has had three individual cases on accessibility issues.

E. Failure to provide appropriate TBI-related supports and therapies for persons who have a dual diagnosis of mental retardation/developmental disabilities (MR/DD)

VOPA has provided legal services to three people under this focus area. In one case, VOPA represented a person who was denied appropriate Assistive Technology Services. VOPA ensured that the person would receive access to her needed technology.

DAC Comments:

The DAC recognizes the significance of the diverse approaches to ensure that people with disabilities have equal access to government services. In particular, the members fully support the “full press” accessible voting project. They felt like the tone was friendly and were pleased that VOPA used a multi-media approach. The DAC holds the Lottery and Logo projects in high regard as they have the potential to positively impact the lives of many people with disabilities. The DAC especially appreciates the outreach to law enforcement project.

Goal: People with Disabilities Live in the Most Integrated Environment Possible

A. Service Animals in Public Accommodations

VOPA is developing a fact sheet on the rights of persons to be accompanied by their service animals. VOPA has also successfully represented persons who were denied access to public accommodations with their service animals. In one case, VOPA entered into a settlement with a restaurant franchise that will ensure that service animals are permitted in all of their restaurants.

VOPA conducted sound research on best practices for implementing a “tester” program to ensure that taxi companies provide services for people who use service animals. VOPA has confirmed that state law requires as a condition of licensure that taxi companies comply with the ADA. The “tester” program implementation has not been pursued due to staff turnover. However, as VOPA receives complaints related to this, they are forwarded to the DMV for adjudication.

B. Appropriate Services and Supports to Enable People to Move into the Community

VOPA successfully facilitated discharge and community placement of a dually diagnosed young man into a licensed 6-person waiver home in community, and has identified sixty-seven additional training center residents who could be discharged to a community placement with family approval.

VOPA has identified five unlicensed care facilities for the aged that houses persons with disabilities and has provided VOPA brochures and information. VOPA is seeking to identify additional, similar facilities

VOPA has represented several EPSDT eligible children who were at risk of nursing home or institutional placement due to the failure of the Department of Medical Assistance Services (DMAS) to comply with state and federal law. VOPA is investigating whether DMAS is properly administering its Elderly or Disabled with Consumer Direction Waiver. VOPA has received complaints that DMAS has not enrolled enough Consumer Directed Service Facilitators to ensure that people receive services. In one case, a person has located a service provider, but

cannot hire that person because there is no DMAS-enrolled Service Facilitator to provide training. VOPA has also learned that there are many children in similar situations, unable to access services because DMAS has not enrolled Facilitators to train and assist the families. VOPA has spoken with several enrolled Facilitators who indicate that they will not provide services due to actions taken by DMAS. VOPA will continue to investigate and take such steps as are necessary to ensure that children have access to Consumer Directed Services. In two other cases, DMAS had improperly delayed finding children eligible for services, for a period of months, due to its failure to ensure that all paperwork was completed. In each case, DMAS, after being alerted by VOPA, corrected the problem and provided services to the children. DMAS indicated that it had identified several other children with similar problems and was taking steps to correct them. In another case, VOPA advocated for a child to receive EPSDT services that had originally been denied. After VOPA entered into the case, DMAS agreed to provide services to the child.

VOPA has represented several people who were not provided with services with reasonable promptness. In several situations, DMAS improperly delayed approving services for Waiver recipients. After VOPA advocated for DMAS to respond to and approve Consumer Services Plans in compliance with their own regulations, VOPA learned that DMAS had begun doing so and had cleared its "backlog" of service requests. As VOPA learned from one Waiver Case Manager, DMAS had, after receiving VOPA's letters, responded to over twenty outstanding requests for services. In two particular cases, DMAS first delayed responding to a request for services, then denied the request. VOPA entered each case, demanded that DMAS approve the requests. VOPA stated that it would file appeals of DMAS' decisions if it did not approve the services. In each case, DMAS approved the services on the day VOPA set as its "deadline" for approving them.

VOPA has monitored DMAS' compliance with the Court Order obtained by VOPA requiring DMAS to inform children of the existence of EPSDT services. By all accounts, DMAS has done so and provided training to its employees and agents on the existence and benefits of EPSDT.

VOPA attempted to work in collaboration with the Brain Injury Association of Virginia to develop an advocacy campaign to ensure that hospitals report brain injuries to the Department of Rehabilitative Services, as required by state law. Collaboration was somewhat slowed due to scheduling difficulties and work by the Brain Injury Association on other matters. However, we eventually identified the appropriate contacts within each entity for collaboration. With further discussion with BIAV, it became clear that they were cautious about aggressively pursuing any action in this area. They felt like the advocacy they were doing with the hospitals was making an impact. BIAV also noted that there was a movement to place the Brain Injury Registry under the Department of Health instead of DRS. BIAV advised that it may be prudent to assess how this change impacts the level of reporting prior to taking any further advocacy steps.

VOPA submitted comments on the DMAS emergency regulations for the Individual and Family Developmental Disabilities Support (IFDDS or DD) Waiver. VOPA alerted DMAS of our disappointment that Virginia has not more aggressively pursued the Independence Plus Waiver nor the available funding to assist with transitioning from institutions. We also noted that we were disappointed that there was not a greater effort to enhance consumer directed services.

VOPA has recently begun an investigation to determine whether the Department of Mental Health, Mental Retardation and Substance Abuse Services has neglected people with mental retardation deemed "ready for discharge" from training centers. The investigation will focus on

whether those persons are provided with appropriate discharge plans, including access to waiver services.

C. Appropriate Assessment and Use of Assistive Technology in Institutions

VOPA provided AT training for case managers at a Community Services Board. VOPA also assisted one client to obtain needed assistive technology.

D. Appropriate Staffing at State Institutions

All VOPA facility investigations address adequacy of staffing. In addition, after review and analysis of substantial critical incident report data, VOPA certified probable cause to believe that systemic abuse or neglect is occurring at a state training center, in part due to inadequate staffing.

DAC Comments:

The DAC is aware that this area, community integration, is a “hot topic.” Members are mindful that it is significant and sensitive to individuals with disabilities, to the State, and to the various VOPA entities (Board, Councils, staff, constituents, funding entities). The DAC is also aware that there may have to be an “agreement to disagree” so that the P&A can move a position forward and more focus its efforts.

The DAC thinks that the work VOPA has done with DMAS is great. This complicated system is critical to people with disabilities and VOPA’s efforts to clarify procedures and ensure consistent application of regulations and requirements is greatly appreciated.

DAC values the ALF monitoring and hopes that it helps to ensure residents’ safety and rights.

DAC is pleased that VOPA has supported that elements of the Independence Plus Waiver be included in any Medicaid Waiver application Virginia submits to CMS. They recognize the value of consumer-centered service delivery planning and implementation.

Goal: People with Disabilities are Employed to their Maximum Potential.

A. Barriers to Work for Social Security Beneficiaries

VOPA has provided four trainings regarding the Ticket to Work Act.

VOPA is currently representing people who have disputes with entities providing employment services.

VOPA has provided technical assistance to at least seven people with employment discrimination complaints.

Three new publications are being readied for printing: the PABSS, Ticket to Work, and BPAO (Benefit Planning, Assistance, and Outreach). These brochures are for students, teachers, and transition specialists so that students and their families will be informed about how transitioning to work after high school may affect Social Security benefits.

B. Acquisition of Assistive Technology for Persons with Disabilities by the Department of Rehabilitative Services, Department for the Blind and Vision Impaired, and the Department for the Deaf and Hard of Hearing.

VOPA has provided and will continue to provide trainings on a consumer's right to acquire assistive technology. VOPA has received complaints that DRS does not comply with state and federal law when providing assistive technology through Virginia's Medicaid program. In two cases, VOPA has intervened on behalf of persons with disabilities and ensured that DRS appropriately provided the technology.

VOPA's Advisory Councils received comprehensive training on assistive technology (AT) devices and services. This was a joint effort of both the Institutions and Communities Teams. Coordination with Virginia Assistive Technology Services (VATS) resulted in the Advisory Council members being able to examine and practice using several AT devices. The VOPA newsletter had an article about assistive technology.

C. Supported Employment

VOPA is evaluating whether state rates for supported employment act as a disincentive for that services.

Progress on this objective has been delayed due to staff changes.

VOPA has represented at least people who have disputes with the Department of Rehabilitative Services regarding supported employment or other supported employment providers.

D. Social Security Redetermination Decisions

VOPA has represented at least 9 people who had their SSI or SSDI benefits discontinued or reduced due to alleged overpayments, has provided three trainings on the rights of SSI/SSDI beneficiaries in such situations, and has represented two people found ineligible for SSI/SSDI. In one case, VOPA filed an appeal of a decision finding a client ineligible for certain benefits. After a trial, the judge found in the client's favor and found her eligible for the benefits.

E. Maximized Employment for Vocational Rehabilitation Clients who are Difficult to Serve

VOPA has entered a settlement with DRS ensuring that DRS does not improperly consider the resources of SSDI recipients when providing educational funding. Previously, DRS had improperly considered the resources of SSI/SSDI recipients, resulting in DRS clients being denied educational funding. VOPA investigated and found that DRS was violating federal law by doing so. VOPA demanded that DRS change its practice and, after settlement negotiations, DRS agreed to do so. VOPA has reviewed DRS' new policy and is of the opinion that it is in compliance with federal law.

VOPA represented people who had disputes with the Department of Rehabilitative Services, including people with traumatic brain injuries, are HIV positive, or have AIDS.

DAC Comments:

The DAC is very appreciative of VOPA staff providing them a training on benefits planning and work incentives. Many of the DAC members reported that they can use this information in their employment, their advocacy and in their personal lives.

The DAC readily recognizes the significant relationship between employment and community integration. Members strongly valued VOPA's efforts to ensure full community integration through employment opportunities for people with disabilities.

The DAC would again like to note its appreciation of VOPA's efforts with DRS in the area of employment.

Goal: People with Disabilities have Equal Access to Appropriate and Necessary Health Care

A. Sign Language Interpreters in Medical Professional Offices

VOPA is developing a brochure highlighting the obligation of medical providers to provide sign language interpreters to patients who need them.

VOPA has represented at least seven people who had complaints that doctors refused to provide them with sign language interpreters. VOPA continues to represent people who are deaf or hard of hearing who have been denied sign language interpreters by medical providers. In one case, VOPA filed a lawsuit in the United States District Court in Norfolk. The case was settled when the doctor agreed to provide sign language interpreters for VOPA's clients and for all other patients who need them. In another case, VOPA entered into a settlement agreement with a medical practice requiring all of its doctors to provide sign language interpreters to person who need them.

VOPA has entered into an agreement with the Department of Corrections requiring DOC to provide sign language interpreters for inmates who need them to communicate with medical and mental health providers. VOPA has monitored compliance with this agreement and found that DOC is providing interpreters for medical and mental health care.

In an effort to continuously increase VOPA's disability awareness/sensitivity and to address staff professional development, VOPA arranged for several employees to participate in introductory sign language classes. They were of no cost to the employees. Staff have made a commitment to adhere to the class schedule and to balance their workloads in order to maintain consistent attendance. Staff were enthusiastic about the class and many practice these skills with each other.

B. Assistive Technology Obtained through Medicaid and Other Insurances

VOPA represented people denied assistive technology by Medicaid and other insurances. In two cases, VOPA found that DMAS was not appropriately administering the Medicaid system. In those cases, DRS, who has a contract with DMAS to provide AT services, was not complying with federal law and improperly delaying providing AT to Medicaid recipients. VOPA demanded that DMAS, as the state agency responsible for ensuring compliance with Medicaid law, remedy the situation and investigate whether other persons were facing similar problems. DMAS ensured that the two persons received their AT and informed VOPA that other persons were facing similar problems but that DMAS had ensured that they receive their AT. In another case, DMAS refused a request for AT by a child who is eligible for EPSDT and should have received the AT because it is necessary to correct or ameliorate her disability. VOPA appealed the decision.

C. Retention of Benefits through 1619(b) and Medicaid Buy-Inn

As previously reported, VOPA has given three trainings on 1619(b) and Medicaid Buy-In and continues to participate in the Medicaid Buy-In Work Group. Progress in this area has been minimal as Virginia must re-submit a Medicaid Buy-In Waiver application.

D. Traumatic Brain Injury Waiver

A TBI waiver was not funded by the 2005 General Assembly so there was limited work to be done in this area. VOPA has continued to consult with the brain injury community about its service needs.

VOPA has established a presence on the Brain Injury Council. We participated in an outcomes development and reporting work day with the brain injury service delivery providers who receive State funding funneled through the Department of Rehabilitative Services. We identified avoiding institutionalization as a necessary outcome.

A representative from the Brain Injury Association of Virginia provided VOPA staff an overview of brain injuries, their impact on the individual and the family, and provided tips on how to more effectively work with people with brain injuries in the area of communication, task completion, etc.

DAC Comments:

The DAC believes that VOPA did good work in the area of medication and treatment in jails.

Members would like to congratulate VOPA staff on the initiative and efforts made to learn sign language. This disability sensitivity is necessary and critical to VOPA's credibility as a disability rights advocate.

The DAC recommends that VOPA consider increasing its efforts in the area of brain injury. Members note that work in this area this past year had somewhat of a slow start and limited successes in the area of collaboration and advocacy.

Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's services.

A. Underserved Communities

VOPA identified the Eastern Shore and far Southwest Virginia as areas that are underserved by the Office based on client database data and staff input. We developed an outreach plan to identify and visit key service providers in these areas so that better education and training about VOPA's services can take place. Outreach planning includes visits to a local hospital, the Community Services Board, a local Department of Social Services, and the region's Center for Independent Living. VOPA has also identified the deaf and hard of hearing and visually impaired populations in far Southwest Virginia as "underserved populations" and is actively working with legal service organizations, Centers for Independent Living and other social organizations to get the word out about VOPA's mission and services.

VOPA identified the following five (5) service-related issues for fact sheet development: employment discrimination; fair housing for persons with disabilities; reasonable accommodations for persons with disabilities; the five core areas in special education

(eligibility, the IEP, transition, behavior and procedural safeguards); and interpreter resources within the Commonwealth. These areas were identified based on requests for information that are regularly received.

VOPA's annual priority planning process for FY06 used the FY05 stakeholder recommendations from our Advisory Councils. A VOPA Disabilities Advisory Council member offered to host one of the focus groups.

VOPA reviewed and updated the VOPA newsletter mailing list. We have made efforts to expand it to include more consumers, family members, and advocates.

In June VOPA participated in a two-hour radio spot with the station manager at WZEZ 100.5 FM radio in Chester, Virginia. The station covers Richmond, Chester, Colonial Heights, Goochland, Amelia, Powhatan, and parts of New Kent County.

B. Developmental Disability Facilities

VOPA is conducting regular outreach at Developmental Disability Facilities, including frequent meetings with the facilities' internal advocates. We have done outreach sessions at three of the five training centers, meeting with residents, staff, and parents. We have had telephone or written contact, as well, with more than 600 parents or authorized representatives.

C. Juvenile Facilities

We have conducted outreach/monitoring visits at all 21 Psychiatric Residential Treatment Facilities (PRTFs) providing those facilities with the pertinent CMS regulations and interpretive guidelines, reviewing seclusion and restraint policies, touring facilities, and providing information about VOPA. These facilities account for 1,426 psychiatric beds for children and adolescents. We have also contacted DMAS and the Center for Quality Health Care regarding lack of compliance with the PRTF Condition of Participation (i.e., lack of current validation letters, noncompliance with the serious occurrence reporting requirement, failure to include P&A contact information in facility seclusion and restraint policies, and failure to conduct validation surveys).

D. CAP Services at Independent Living Centers

VOPA has sent a notice to all Centers for Independent Living reminding them of their responsibility to inform clients about CAP services.

VOPA continues to schedule and hold "Office Hours" at Centers for Independent Living. VOPA expanded this effort to include "Office Hours" being provided at Brain Injury Services of Southwest Virginia.

E. Social Security Beneficiaries

VOPA has drafted several publications on the rights of social security beneficiaries. We also have conducted numerous trainings to inform beneficiaries of their rights.

F. Spanish Speaking Constituents

VOPA continues to reach out to the Spanish-speaking population in metro Richmond, and provide needed disability-related resources through established coalitions and government leaders. VOPA continues to attend meetings with the Richmond Hispanic Liaison Office, the

metro Richmond Coalitions, and the Limited English Speaking Program (LESP) to keep abreast of disability-related issues among our Spanish-speaking consumers.

G. Adult Care Homes (Assisted Living Facilities)

VOPA participated on the Advisory Committee for the Virginia Department of Social Services (VDSS) Assisted Living Facilities Licensing Regulations. VOPA supported the development of regulations that would strengthen incident reporting requirements, involve the consumer in all aspects of service/care planning/implementation, and respecting consumer choice. This was a one-time meeting with a VDSS set agenda. It will be imperative for VOPA and other advocates to closely follow the Administrative Process Act advocacy opportunities in order to continue to influence the development of these regulations.

VOPA attended and actively participated in the Task Force convened by the Board of Nursing to assist in the development of administrative regulations for the registration/certification and training of medication aides in assisted living facilities. VOPA advocated to include the resident in every aspect of medication administration when possible based on the individual's capacity. VOPA also advocated for accountability and clear expectations regarding documentation. VOPA also provided written recommendations to the Task Force and Board of Nursing; again we stressed the need for resident participation and staff accountability. We encouraged the Task Force and the Board of Nursing to try to balance the needs of a medical model with the need to maintain a non-institutional setting.

H. Traumatic Brain Injury

We have had difficulties coordinating with the Brain Injury Association of Virginia. We are working closely with regional brain injury groups, in addition to BIAV.

DAC Comments:

The DAC feels very positive about the outreach efforts VOPA has initiated to reach underserved and unserved populations. Members recognize that the focus groups conducted to solicit public input into the priority planning process are a vital outreach strategy. DAC is in agreement with identified underserved populations and the more remote geographic locations.

Other DAC Comments

The DAC has a very favorable impression of the VOPA priority planning process used this past fiscal year. Members feel that they were very involved and that the interactive process gave them a greater opportunity to fully participate. They do not want to have this be an exercise done by e-mail. They also note that it is good to see that public comment is actually used by VOPA; this is not always the case with public bodies.

DAC Members report that they received excellent legal and disability rights trainings at their meetings. They are very pleased with the presentations and appreciate the opportunity to interact with VOPA staff.

DAC members value the interaction with the VOPA Governing Board and believe that the Chair's liaison function fosters a greater connection between the Board and the Council. Members like the new committee structure and look forward to active participation.

The DAC is looking forward to a joint meeting with the PAIMI Council in the next year. They have similar concerns about membership recruitment and retention.

The DAC is appreciative of the meeting agendas and “packets”; they find them to be nicely organized and more timely than they were a year ago.

And finally, the DAC believes it has good communication with VOPA and VOPA staff. It is timely, frank, respectful, and open.